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STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
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February 3, 2004

TO: Interested Parties

FROM: Christine Zukas-Lessard, Acting Director, Bureau of Medical Services

SUBJECT: Emergency Rule: MaineCare Benefits Manual, Chapter II, Section 90, Physician Services

Pursuant to 5 MRSA Sec. 8054 the Department of Human Services ("the Department") has determined that immediate adoption of these rules is necessary to avoid an immediate threat to public health, safety or general welfare. The threat to the public health, safety or general welfare has become clear from recent financial information gathered by the Department and by the analysis of that information conducted by the Department of Administrative and Financial Services ("DAFS"). That financial information and analysis reveals that, absent immediate corrective action, the funding available to the Department would soon be inadequate to meet various expenditures of the Department, threatening both beneficiaries and providers in the MaineCare program. As a result of this situation, the Department has determined it is necessary to change the rules for MaineCare Benefits Manual, Chapter II, Section 90, Physician Services.

Only Section 90.05-1 is affected by this emergency rulemaking. The MaineCare program will now require prior authorization for some surgeries currently not prior authorized by the MaineCare program to document medical necessity. Surgeries and procedures that will now require prior authorization include, but are not limited, to bunion surgery, circumcision, and skin tag removal.

These emergency rules will remain in effect for 90 days. The Department is concurrently promulgating rules through the regular rulemaking process to allow public comment. Rules and related documents may be reviewed and printed from the Bureau of Medical Services website at <http://www.state.me.us/bms/rulemaking/> or, for a fee, interested parties may request a paper copy of rules by contacting the Division of Policy and Provider Services at 207-287-9368.

90.05 **RESTRICTED SERVICES**

90.05-1 Services Covered With Authorization Prior to Provision (APTP)

The following services are covered only when Authorization prior to provision (APTP) has been granted by the Department. Refer to 90.08-3 below for procedure to request APTP.

A. Cosmetic Procedures (APTP)

Medical or surgical procedures performed only for cosmetic purposes are not covered services. APTP should be requested if there is any question as to the medical necessity of the procedure or treatment.

B. Out-of-State Services (APTP)

Any referral for medical diagnosis, evaluation or treatment outside the State of Maine requires prior authorization. (See Chapter I, Section 1.17 of this Manual for policies and procedures regarding out of state services).

C. Gastric Bypass or Gastroplasty Surgery

Reimbursement will be made to the physician, hospital or other healthcare provider for services related to gastric bypass or gastroplasty surgery only when prior approval has been granted by the Department. Approval will be granted only when the physician requesting prior authorization can clearly document in writing the following conditions:

1. The patient's weight is at least twice the normal weight, or 100 lbs. over the ideal weight;
2. The patient has been unable to obtain the desired weight loss through non-surgical means under appropriate medical supervision, including psychological evaluation,
3. There is an appropriate pre-operative, post-operative, and follow-up plan by the physician and dietitian; and
4. The surgery is medically necessary to correct an illness or condition caused by the obesity or aggravated by the obesity.

90.05 **RESTRICTED SERVICES (cont.)**

90.05-1 Services Covered With Authorization Prior to Provision (APTP) (cont.)

D. Hyperbaric Oxygen Therapy

Hyperbaric oxygen (HBO) therapy is a modality in which the entire body is exposed to oxygen under increased atmospheric pressure.

1. Covered Conditions - Program reimbursement for HBO therapy will be limited to that which is administered in a chamber (including the one person unit) for the following conditions:
 - a. Acute carbon monoxide intoxication
 - b. Decompression illness
 - c. Gas embolism
 - d. Gas gangrene
 - e. Acute traumatic peripheral ischemia. HBO therapy is a valuable adjunctive treatment to be used in combination with accepted standard therapeutic measures, when loss of function, limb, or life is threatened.
 - f. Crush injuries and suturing of severed limbs. As in the previous conditions, HBO therapy would be an adjunctive treatment, when loss of function, limb, or life is threatened.
 - g. Meleney ulcers. The use of hyperbaric oxygen in any other type of cutaneous ulcer is not covered.
 - h. Acute peripheral arterial insufficiency.
 - i. Preparation and preservation of compromised skin grafts.
 - j. Chronic refractory osteomyelitis, unresponsive to conventional medical and surgical management.

90.05 **RESTRICTED SERVICES (cont.)**

90.05-1 Services Covered With Authorization Prior to Provision (APTP) (cont.)

- k. Osteoradionecrosis as an adjunct to conventional treatment.
 - l. Soft tissue radionecrosis as an adjunct to conventional treatment.
 - m. Cyanide poisoning.
 - n. Actinomycosis, only as an adjunct to conventional therapy then the disease process is refractory to antibiotics and surgical treatment.
2. Noncovered Conditions - No program payment may be made for HBO in the treatment of the following conditions:
- a. Cutaneous, decubitus and stasis ulcers.
 - b. Chronic peripheral vascular insufficiency.
 - c. Anaerobic septicemia and infection other than clostridial.
 - d. Skin burns (thermal)
 - e. Senility
 - f. Myocardial infarction
 - g. Cardiogenic shock
 - h. Sickle cell crisis
 - i. Acute thermal and chemical pulmonary damage, i.e., smoke inhalation with pulmonary insufficiency.
 - j. Acute or chronic cerebral vascular insufficiency.
 - k. Hepatic necrosis
 - l. Aerobic septicemia
 - m. Nonvascular causes of chronic brain syndrome (Pick's disease, Alzheimer's disease, Korsakoff's disease)

10-144 Chapter 101
MAINE MEDICAL ASSISTANCE MANUAL
CHAPTER II

SECTION 90

PHYSICIAN SERVICES

10/15/81

90.05 **RESTRICTED SERVICES (cont.)**

90.05-1 Services Covered With Authorization Prior to Provision (APTP) (cont.)

- n. Tetanus
 - o. Systemic aerobic infection
 - p. Organ transplantation
 - q. Organ storage
 - r. Pulmonary emphysema
 - s. Exceptional blood loss anemia
 - t. Multiple sclerosis
 - u. Arthritic Diseases
 - v. Acute cerebral edema
3. Reasonable Utilization Parameters - Payment should be made where HBO therapy is clinically practical. HBO therapy should not be a replacement for other standard successful therapeutic measures. Depending on the response of the individual patient and the severity of the original problem, treatment may range from less than 1 week to several months duration, the average being 2 to 4 weeks. The medical necessity for use of hyperbaric oxygen must be prior authorized by the Professional Claims Review Unit.
4. Topical Application of Oxygen - This method of administering oxygen does not meet the definition of HBO therapy as stated above. Also, its clinical efficacy has not been established. Therefore, no Medicaid reimbursement may be made for the topical application of oxygen.

E. Bunion Surgery

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All bunion surgery must be prior authorized. MaineCare only covers bunion surgeries where risk exists for significant foot damage if not repaired, or for pain severe enough to affect ambulation. Inability to find comfortable shoes is not sufficient for coverage of surgery. The Department will use the following criteria for prior authorization:

- 1) The Department will cover bunion surgery only when necessary due to underlying illness or severity of the condition, such that progressive harm would occur without the procedure. Examples of

90.05 **RESTRICTED SERVICES (cont.)**

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such conditions are peripheral vascular disease, diabetes, or neuropathy of the foot causing pressure ulcers that, due to the extent of the deformity, have failed to improve after an appropriate trial of custom-made shoes.

2)The Department will prior authorize bunion surgery for the diagnosis of pain only after there is documentation of pain that is ongoing or recurrent despite a 90-day trial of an appropriately fitted orthosis or shoe, and the trial of either non-steroidal anti-inflammatory drugs or Acetaminophen, and either physical therapy or change of footwear.

F. Circumcision

Circumcision for cosmetic or routine purposes is not covered, including routine circumcision of newborns. All other circumcisions must be prior authorized with documentation of medical necessity, including documentation of the failure of adequate trials (60 days) of conservative or topical therapies. Examples of covered circumcision with prior authorization are conditions such as gangrene or malignancy of the prepuce.

G. Skin Tag Removal

Skin tag removal requires prior authorization and will only be covered when there is significant, ongoing, or recurrent irritation or discomfort that is documented in the medical record.